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Review of the efficiency of the administrative and financial functioning of the United Nations

Gratis personnel provided by Governments and other entities

Report of the Secretary-General

I. Introduction

1. The present report is submitted in response to General Assembly resolution 51/243 of 15 September 1997, by which the Secretary-General was requested, *inter alia*, to revise the draft guidelines set out in his prior reports on gratis personnel provided by Governments and other entities (A/51/688 and Corr. 1, A/51/688/Add.3) in accordance with the provisions of the resolution, and to submit the revised guidelines, through the Advisory Committee on Administrative and Budgetary Questions, for the approval of the General Assembly at the main part of its fifty-second regular session.

2. The plan to phase out type II gratis personnel who fall outside the scope of paragraph 4 of resolution 51/243 is the object of a separate report.

II. Scope of the revised guidelines

3. The revised guidelines will apply prospectively to type II gratis personnel, who may be accepted only in accordance with the conditions set out in resolution 51/243.

4. The guidelines will not apply to type I gratis personnel, who are governed by established regimes in place for a number of years. Type I gratis personnel includes Junior Professional Officers and associate experts, interns, and personnel on non-reimbursable loans performing technical cooperation activities (A/51/688 and Corr.1, paras. 16-23). This third category is governed by administrative instruction ST/AI/231/Rev.1 of 23 January 1991, which will also apply to gratis personnel performing functions of a purely technical and operational nature funded through voluntary contributions.

III. Revised guidelines for type II gratis personnel

Conditions under which gratis personnel may be accepted

5. Paragraph 4 of General Assembly resolution 51/243 sets out the conditions under which the Secretary-General may accept type II gratis personnel:

(a) After the approval of a budget, to provide expertise not available within the Organization for very specialized functions, as identified by the Secretary-General, and for a limited and specified period of time;

(b) To provide temporary and urgent assistance in the case of new and/or expanded mandates of the

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Organization, pending a decision by the General Assembly on the level of resources required to implement those mandates.

Member States to be informed

6. At the time of preparation of a budget, when it is foreseen that under that budget there will be needs which fulfil the conditions of paragraph 4 (a) of resolution 51/243, the relevant department or office will approach all Member States to inform them of the specific needs to be met by type II gratis personnel. Member States will be requested to identify within two months individual(s) who could provide the required expertise.

7. In the case of new or expanded legislative mandates for which gratis personnel may be required under paragraph 4 (b) of the resolution, all Member States will be informed of the needs to be met on a temporary and urgent basis and will be requested to identify individual(s) who could provide the required assistance within a period consistent with the urgency of the need in question.

Selection

8. All nominees will be evaluated by the requesting department to ascertain that the best qualified nominee is selected on the basis of standards established by the United Nations in terms of qualifications, experience and other relevant factors, taking into account the date of availability of the nominees. The Office of Human Resources Management will provide appropriate guidelines to programme managers. When selecting a nominee, due regard will be paid to the importance of ensuring that gratis personnel are obtained from as wide a geographical basis as possible.

Functions

9. Gratis personnel may not supervise staff members in the exercise of their official duties or be involved in decisions affecting the status, rights and entitlements of staff members.

10. The specific functions must meet the conditions contained in paragraph 4 of resolution 51/243 (see para. 5 above).

Duration of functions

11. Gratis personnel accepted under paragraph 4 (a) of resolution 51/243 may be accepted after the approval of a budget for an initial period of up to one year to discharge very specialized functions for which expertise is not required on a continuing basis in the Secretariat. The situation will be reviewed closely at the time of preparation of each subsequent budget to determine whether the functions remain so specialized that it is still not appropriate for the Secretariat to build up the necessary expertise.

12. Gratis personnel accepted under paragraph 4 (b) of the resolution for new or expanded mandates before a budget has been approved may serve for a period ending six months after the anticipated date of approval of the relevant budget, to allow staff to be recruited after the budget has been approved. Staff will be recruited as soon as possible, so as to provide for a "hand-over" period from the gratis personnel to the new staff member(s).

Status

13. Gratis personnel, while performing functions for the Organization, will have the status of experts on mission for the purposes of the Convention on the Privileges and Immunities of the United Nations.[1] The status of experts on mission is defined in article VI, sections 22 and 23, of that Convention.

Remuneration, medical and life insurance, pension and other social security benefits

14. All expenses in connection with the services of gratis personnel, including salaries, allowances and benefits to which the individuals involved are entitled, and travel costs to and from the location where the gratis personnel are based will be paid by the donor. During the entire period of service under the agreement, the donor will also ensure that gratis personnel are covered by adequate medical and life insurance, as well as insurance coverage for illness, disability or death incurred in the service of the United Nations.

15. Costs incurred by type II gratis personnel undertaking official travel in the discharge of their functions will be paid by the United Nations on the same basis as costs incurred by staff members, including payment of daily or mission subsistence allowance, as applicable.

Annual leave

16. Annual leave may be taken by gratis personnel in accordance with their terms of service with the donor but may not exceed leave entitlements of staff members. Accordingly, gratis personnel accepted for a period of six months or less may be granted leave up to a maximum of one and one half days for each full month of continuous service. Gratis personnel accepted for a period of more than six months and personnel whose services are extended beyond

six months may be granted leave up to a maximum of two and one half days for each full month of continuous service.

17. Leave plans must be approved in advance by, or on behalf of, the head of the department or office concerned.

Performance of services

18. Gratis personnel will perform their functions under the authority and in full compliance with the instructions of the appropriate official in the department or office concerned, and any person acting on his or her behalf. They will be required to observe all applicable regulations, rules, instructions, procedures and directives relevant to the performance of their functions.

19. The performance of the functions assigned to gratis personnel will be evaluated in accordance with the principles of the performance appraisal system.

Standards of conduct

20. Gratis personnel will have the duty to respect the impartiality and independence of the United Nations Secretariat and of the receiving office and will be precluded from seeking or accepting instructions regarding the services performed under the agreement from any Government or from any authority external to the Organization. They must refrain from any conduct which would adversely reflect on the United Nations or on the receiving office and may not engage in any activity which is incompatible with the aims and objectives of the United Nations.

21. Gratis personnel will be required to exercise the utmost discretion in all matters relating to their functions. Unless otherwise authorized by the appropriate official in the receiving office, they may not communicate at any time to the media or to any institution, person, Government or other external authority any information that has not been made public and which has become known to them by reason of their association with the United Nations or the receiving office. They may not use any such information without the written authorization of the appropriate official and such information may never be used for personal gain. These obligations will continue after the end of their service with the United Nations.

Accountability

22. Unsatisfactory performance or failure to conform to the standards of conduct set out above will lead to termination of service, for cause, at the initiative of the United Nations. One month's notice will be given.

23. However, any serious breach of the duties and obligations which, in the view of the Secretary-General, would justify separation before the end of the notice period will be immediately reported to the donor, with a view to obtaining agreement on an immediate cessation of service.

24. The donor will reimburse the United Nations for financial loss or for damage to United Nations-owned equipment or property caused by gratis personnel provided by the donor if such loss or damage (a) occurred outside the performance of services with the United Nations, or (b) arose or resulted from gross negligence or wilful misconduct or violation or reckless disregard of applicable rules and policies by such gratis personnel.[2]

Third-party claims

25. The United Nations will be responsible for dealing with claims by third parties where the loss of or damage to their property, or death or personal injury, was caused by the actions or omissions of the gratis personnel in the performance of services to the United Nations under the agreement with the donor. However, if the loss, damage, death or injury arose from gross negligence or wilful misconduct of the gratis personnel provided by the donor, the donor will be liable for handling and settling such claims.[3]

Agreement with the United Nations

26. The respective obligations of the United Nations, donors and gratis personnel will be clearly specified in a formal agreement between the United Nations and the donor. The individuals who are to serve as type II gratis personnel play no part in negotiating the basic agreement between the United Nations and the donor. They will serve under the terms agreed upon by the United Nations and the donor, including full and direct remuneration by the donor.

27. The essential duties and obligations that the United Nations will expect each individual brought in as gratis personnel to respect will be spelled out both in the agreement with the donor and in an individual undertaking signed by the gratis personnel.

28. The agreement will contain a provision allowing each party to terminate the agreement and/or the services of the gratis personnel provided under the agreement upon one month's written notice by the other party.

Notes

[1] United Nations, *Treaty Series*, vol. I, No. 4.

[2] Provision modelled on article 10 (Recovery), model Memorandum of Understanding between the United Nations and participating States contributing resources to a United Nations peacekeeping operation, A/51/967, annex.

[3] Provision modelled on article 9 (Claims by third parties), ibid.

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PROPOSED PROGRAMME BUDGET FOR THE BIENNIUM 1998-1999

Interim study of the question of honoraria payable to members of organs and subsidiary organs of the United Nations

Report of the Secretary-General

I. INTRODUCTION

1. In its resolution 35/218 of 17 December 1980, the General Assembly decided that, with effect from 1 January 1981, the following rates of honoraria should be payable in those cases that it had already authorized on an exceptional basis, namely, the International Law Commission, the International Narcotics Control Board, the United Nations Administrative Tribunal and the Human Rights Committee:

	Revised rate of honoraria (United States dollars)
Chairmen (Presidents)	5 000
Vice-Chairman of the International Narcotics Control Board	4 000
Other members	3 000
Additional amount payable to members of the International Law Commission when acting as special rapporteurs, conditional upon the preparation of specific reports of studies between sessions of the Commission	2 500

2. In the same resolution, the General Assembly requested the Secretary-General to keep the above rates of honoraria under review and to report thereon to the Assembly, when, in his judgement, their revision by the Assembly might be warranted.

II. BACKGROUND INFORMATION

3. In the fall of 1989, the Legal Counsel of the United Nations received a communication from the President of the United Nations Administrative Tribunal proposing increases in the rates of honoraria for the President and members of the Tribunal. The Secretary-General noted the arguments put forward by the President of the Tribunal and concluded that it was appropriate to bring the matter to the attention of the Assembly, pursuant to paragraph 2 of its resolution 35/218.

4. Accordingly, a report on honoraria payable to members of organs and subsidiary organs of the United Nations (A/C.5/46/12) was submitted to the General Assembly at its forty-sixth session. The Advisory Committee on Administrative and Budgetary Questions, having been informed that a more comprehensive review would be conducted on the subject, did not comment on the proposals contained in the report and recommended instead that the General Assembly defer consideration of the matter until its forty-seventh session.

5. In section V of its resolution 46/185 A of 20 December 1991, the General Assembly decided to defer until its forty-seventh session consideration of the report of the Secretary-General on the item.

6. In paragraph 85 of its first report on the proposed programme budget for the biennium 1992-1993,[2] the Advisory Committee stated that, with the rapid expansion of the activities of the United Nations in certain areas, the work of some of its committees and commissions had increased dramatically. The Advisory Committee also stated its belief that the time had come for the Secretary-General to examine all the consequences of that trend and to report thereon to the General Assembly with such recommendations as might be appropriate.

7. Consequently, the Secretary-general submitted to the General Assembly at its forty-seventh session a report on honoraria payable to members of organs and subsidiary organs of the United Nations (A/C.5/47/45).

8. In his review, the Secretary-General recalled the conditions enunciated by the General Assembly in its resolutions 35/218 and 45/185 A and by the Advisory Committee and took note of the arguments put forward by the President of the United Nations Administrative Tribunal, notably the doubling of its volume of work in the last decade, which was deemed could serve as a basis for an increase in the rates of honoraria. A concomitant increase in the responsibilities and workload was also detected for the other five bodies for which honoraria had been authorized. In the light of the length of time that had elapsed since the occasion of the latest revision in the rate of honoraria, the Secretary-General decided to bring the matter to the attention of the Assembly, in accordance with the provisions of paragraph 2 of resolution 35/218.

9. The Secretary-General also recalled his comments made in his report submitted to the General Assembly at its forty-sixth session (A/C.5/46/12) that there was no established procedure to determine the amount of an increase for honoraria and that honoraria were considered to be of a token nature. The Secretary-General was of the view that the honoraria had experienced a decline in their real value as a result of inflation since they were revised in 1981. Thus, he proposed to revise the rates of honoraria to reflect a 25 per cent increase over the current rates.

10. In paragraph 51 of his report, the Secretary-General observed that, in the absence of any specific guidance on the subject of honoraria and workload, he found it difficult to draw any conclusions on the relationship between workload and payment of honoraria to members of subsidiary bodies. In paragraph 52 of his report, he further commented that, over the years, the General Assembly had approved payment of honoraria in exceptional cases to members of specific organs and subsidiary organs. In some instances, the payment of such honoraria was based on specific provisions contained in the statutory rules approved by the General Assembly for the bodies concerned. From the nature of the mandates of those bodies (treaty implementation and other legal matters), it was his opinion that it would appear that the General Assembly has approved payment of honoraria to acknowledge in a token manner an evidently substantial sacrifice of time or of financial interest on the part of members rather than to seeking to compensate them adequately for their services.

11. He further stated that, at the time of the creation of the various bodies, the Secretary-General had not been involved in developing those decisions nor had he been advised of the rationale for payment of honoraria. The role of the Secretary-General in the process was limited to keeping the rates of honoraria under review and reporting thereon to the General Assembly when, in his judgement, their revision might be warranted. It was the view of the Secretary-General that the proposal to revise the rates of honoraria by 25 per cent, made in 1992, was still valid and thus it was resubmitted to the General Assembly for consideration at its forty-seventh session. In his report, the Secretary-General also presented a review of the workload of those committees and commissions for which the General Assembly had exceptionally authorized payment of honoraria, namely, the International Law Commission, the International Narcotics Control Board, the United Nations Administrative Tribunal, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. With respect to each of those bodies, he provided information on the composition of the membership and analysis of the nature of the workload, the responsibility of individual members, the annual average meeting period and the amount of documentation reviewed.

12. The Advisory Committee did not object to the Secretary-General's proposal to increase the rates of honoraria by 25 per cent; however, it commented that there was little evidence in the report to suggest that a comprehensive review regarding such questions as to whether there might be other bodies within the system eligible for payment of honoraria, or the implications of introducing uniformity into the conditions for the payment of honoraria, had been dealt with.[1]

13. In section XV of its resolution 47/219 of 23 December 1992, the General Assembly decided to postpone to its resumed forty-seventh session the review of the whole question of honoraria.

14. By its decision 47/460 B of 6 May 1993, the General Assembly decided to defer consideration of the reports of the Secretary-General on a comprehensive study of the question of honoraria payable to members of organs and subsidiary organs of the United Nations (A/C.5/46/12 and A/C.5/47/45); it has not considered the issue since then.

III. LEVEL OF HONORARIA

15. The Secretariat received communications in August 1995 and in January 1996, respectively, from the President of the International Narcotics Control Board, in which he recalled that the General Assembly, in its resolution 35/218, had revised the rates of honoraria of the Chairmen, the Vice-Chairman of the International Narcotics Control Board and other members of the International Law Commission, the International Narcotics Control Board, the United Nations Administrative Tribunal and the Human Rights Committee. The provisions of General Assembly resolution 35/218 were also recalled whereby the Secretary-General was requested to keep the rates of honoraria under review and to report thereon to the Assembly when their revision might be warranted. The President of the International Narcotics Control Board also attached a chart showing the inflationary erosion that the amounts fixed by the Assembly have undergone during the past 15 years. He further stated that, "the members of the Board, who, in accordance with article 10, paragraph 6, of the Single Convention on Narcotic Drugs, 1961, shall receive adequate remuneration, as determined by the General Assembly, request therefore that appropriate steps be taken to revise the rates, which having already been in force since 1981 can no longer be considered adequate".

16. In January 1996, the Legal Counsel of the United Nations received a communication from the President of the United Nations Administrative Tribunal who recalled that:

> "the rate of honoraria applicable to the Tribunal and other subsidiary organs, which has remained unchanged for 15 years, was the subject of a report by the Secretary-General to the General Assembly. This was prompted, in part, by a communication from one of my predecessors as President of the Administrative Tribunal. The issue was deferred for further study. ... The points touched on in paragraph 8 of the Secretary-General's report (A/C.5/46/12) with regard to workload and inflation have become even more aggravated since 1991. For that reason, I hope that a change in the status quo will receive the consideration it deserves in the near future. It seems to me to be quite unfair for it to have been permitted to persist since 1991."

17. At a meeting held on 21 October 1996 with the Legal Counsel, the President of the Administrative Tribunal and other members of the Tribunal addressed the issue of honoraria. During the discussion, it was indicated that the Tribunal felt that its members should be treated differently from those of other

non-judicial bodies, and their honoraria should be patterned after those paid to persons performing judicial functions for the United Nations, e.g., ad hoc judges of the International Court of Justice.

18. In paragraph 86 of its first report on the proposed programme budget for the biennium 1996-1997,[4] the Advisory Committee recalled its view on the question of honoraria, expressed in 1992,[3] that:

> "7. ... there is little evidence in the report [A/C.547/45] to suggest that a comprehensive review regarding such questions as to whether there might be other bodies within the system eligible for payment of honoraria, or the implications of introducing uniformity into the conditions for the payment of honoraria, have been dealt with."

The Advisory Committee further commented that the concerns expressed above were still valid and it requested the Secretary-General to respond to them at the earliest opportunity.

IV. REVIEW OF THE LEVEL OF HONORARIA

19. The basic principle governing the payment of honoraria enunciated by the General Assembly in its resolution 2489 (XXIII) of 21 December 1968 and reaffirmed in its resolutions 3536 (XXX) of 17 December 1975 and 35/218 of 17 December 1980 was that neither a fee nor any other remuneration in addition to subsistence allowances at the standard rate would normally be paid to members of organs or subsidiary organs unless expressly decided upon by the General Assembly.

20. As indicated in paragraph 1 above, the rates of honoraria were last revised by the General Assembly as from 1 January 1981 and are payable in those cases that it had already authorized on an exceptional basis, i.e., the International Law Commission, the International Narcotics Control Board, the United Nations Administrative Tribunal and the Human Rights Committee.

21. In his report (A/C.5/47/45), the Secretary-General noted that the General Assembly had decided that the same rates of honoraria should be applied subsequently to two other subsidiary organs, on an exceptional basis. In its resolution 36/240 A of 18 December 1981, the General Assembly approved that the members of the Committee on the Elimination of Discrimination against Women be paid the rate of honoraria set out in resolution 35/218 (see A/C.5/36/90). In section VII of its resolution 44/201 A of 21 December 1989, the Assembly decided that the emoluments for members of the Committee on the Rights of the Child should be payable at the rates of honoraria authorized in resolution 35/218.

22. It is also recalled that, prior to the adoption of resolution 35/218, the General Assembly had examined the matter on several occasions, notably at its thirtieth,[5] thirty-first (A/C.5/31/2) and thirty-third sessions.[6] As mentioned above, the basic principle enunciated by the Assembly at its twenty-third, thirtieth and thirty-fifth sessions, respectively (resolution 2489 (XXIII) of 21 December 1968, and resolutions 3536 (XXX) and 35/218), was that neither a fee nor any other remuneration in addition to subsistence allowances at the standard

rate would normally be paid to members of organs or subsidiary organs unless expressly decided upon by the General Assembly. It is further recalled that, at its thirtieth session, the Assembly had sought to determine whether it would be possible to replace the present practice, which derives from ad hoc decisions to allow exceptions to a rule, by a coherent system under which uniform criteria would determine whether members of a particular organ or subsidiary organ should or should not be paid honoraria.

V. CONCLUSIONS AND RECOMMENDATIONS

23. As mentioned in paragraph 3 above, the previous review of the level of honoraria was initiated in response to the 1989 submission by the President of the United Nations Administrative Tribunal. The purpose of the present report is to respond to the concerns expressed by both the President and members of the International Narcotics Control Board and the President and members of the United Nations Administrative Tribunal concerning the level of honoraria. Given their comments, it would seem appropriate to request that the General Assembly consider taking some action to revise the honoraria for members of the Board and the Tribunal as well as the members of other bodies who are paid honoraria. In this regard, it must be noted that the present report is being submitted as an interim measure pending the undertaking of the comprehensive review requested by the Advisory Committee regarding whether there might be other bodies within the system eligible for payment of honoraria and the implications of introducing uniformity into the conditions for the payment of honoraria. The Secretary-General intends to submit a report thereon to the General Assembly at its fifty-third session.

24. Bearing in mind the basic principle enunciated by the General Assembly and the views expressed by the Advisory Committee concerning honoraria, the Secretary-General, on this occasion, presents the merits of the arguments put forward by both the President of the International Narcotics Control Board and the President of the Tribunal. In so doing, he also recalls that, on the occasion of the review undertaken in 1992, the Advisory Committee had not objected to his proposal to revise the rates of honoraria to reflect a 25 per cent increase over the current rates.

25. In the circumstances, it is the view of the Secretary-General that since the Advisory Committee had not objected to his proposal to revise the rates of honoraria to reflect a 25 per cent increase over the rates that came into effect as from 1 January 1981, he is resubmitting this recommendation to the General Assembly for consideration at its fifty-second session. Should the Assembly approve this proposal, it would take effect as from 1 January 1998.

26. The revised annual rates of honoraria would be payable in those cases that the General Assembly had already authorized on an exceptional basis, namely, the International Law Commission, the International Narcotics Control Board, the United Nations Administrative Tribunal, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, as follows:

	Rate of honoraria (United States dollars)		
	Present rate[a]	Proposed rate	Increase
Chairmen (presidents)	5 000	6 250	1 250
Vice-Chairman of the International Narcotics Control Board	4 000	5 000	1 000
Other members	3 000	3 750	750
Additional amount payable to members of the International Law Commission when acting as special rapporteurs, conditional upon the preparation of specific reports of studies between sessions of the Commission	2 500	3 125	625

[a] As authorized by the General Assembly by its resolutions 35/218, 36/240 A and 44/201.

VI. FINANCIAL IMPLICATIONS

27. Should the General Assembly approve the proposals for an increase by 25 per cent of the rates of honoraria to members of the six committees/organs listed in the annex to the present report, additional appropriations would be required in 1998-1999 under sections 6, 7, 15 and 22 as follows:

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Section 6	Legal affairs	69 500
Section 7	Department of Economic and Social Affairs	35 500
Section 15	International drug control	21 500
Section 22	Human rights	56 500

Notes

[1] Official Records of the General Assembly, Forty-sixth Session, Supplement No. 7A (A/46/7/Add.1-16), document A/46/7/Add.8.

[2] Ibid., Supplement No. 7 (A/46/7).

[3] A/47/7/Add.10, to be issued in Official Records of the General Assembly, Forty-seventh Session, Supplement No. 7A, document A/47/7/Add.10.

[4] Official Records of the General Assembly, Fiftieth Session, Supplement No. 7 and corrigendum (A/50/7 and Corr.1).

[5] See A/C.5/1677 and Corr.1, A/10500 and resolution 3536 (XXX).

[6] See A/C.5/33/54 and Official Records of the General Assembly, Thirty-third Session, Supplement No. 7A, document A/33/7/Add.39.

ANNEX

Financial implications for the biennium 1998-1999 of the proposed increase in the rates of honoraria

			United States dollars
Section 6	Legal affairs	International Law Commission (Chairman, 32 members (6 rapporteurs))	58 000
Section 6	Legal affairs	United Nations Administrative Tribunal (Chairman, 6 members)	11 500
Section 7	Department of Economic and Social Affairs	Committee on the Elimination of Discrimination against Women (Chairman, 22 members)	35 500
Section 15	International drug control	International Narcotics Control Board (President, 2 Vice-Presidents, 10 members)	21 500
Section 22	Human rights	Human Rights Committee (Chairman, 17 members)	28 000
Section 22	Human rights	Committee on the Rights of the Child (Chairman, 17 members)	28 000
	Total		182 500